



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 8

**999 18th STREET - SUITE 300
DENVER, COLORADO 80202-2466**

August 25, 2004

Ref: 8ENF-W

CERTIFIED MAIL 7003 2260 0001 7777 9334
RETURN RECEIPT REQUESTED

Sublette County Commissioners
c/o Gordon Johnston, Chair
POB 250
Pinedale, WY 82941

Re: Notice of Safe Drinking Water
Act Enforcement Action against
Sylvan Bay Summer Homeowner's
Association, PWS ID# 5601111

Dear County Commissioners:

Pursuant to Section 1414(a)(2)(B) of the 1996 amendments to the Safe Drinking Water Act (SDWA), the Environmental Protection Agency (EPA) is required to notify an appropriate locally elected official of any action taken in a State that does not have primary enforcement authority for public water systems. The State of Wyoming does not have primary enforcement authority for public water systems under the SDWA.

An Administrative Order is being issued under Section 1414 of the SDWA to Sylvan Bay Summer Homeowner's Association, Rock Springs, Wyoming. This Order requires that the public water system take measures to return to compliance with the SDWA and the National Primary Drinking Water Regulations. The Association is in violation of 40 C.F.R. §§ 141.23(d), 141.63(b), 141.21(b), 141.21(b)(5), 141.201, 141.21(g)(2) and 141.31(b) for: failure to monitor for nitrate and bacteriological quality; exceeding the acute maximum contaminant level for total coliform (this violation was immediately corrected and nonrecurring); and for failure to provide public notice and report SDWA violations to EPA.



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A copy of the Order is enclosed for your information. The Order does not require any response or action by the County Commission. If you have any questions regarding this Order, please contact Kathelene Brainich at (303) 312-6481.

Sincerely,

SIGNED

Diane L. Sipe, Director
Technical Enforcement Program
Office of Enforcement, Compliance
and Environmental Justice

Enclosure





UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION VIII

999 18th STREET - SUITE 300
DENVER, COLORADO 80202-2466
<http://www.epa.gov/region08>

Ref: 8ENF-W

CERTIFIED MAIL 7003 2260 0001 7777 9327
RETURN RECEIPT REQUESTED

Louis Boschetto, Registered Agent
Sylvan Bay Summer Homeowner's Association
817 Seventh Street
Rock Springs, WY 82901

Re: Administrative Order
Docket No. **SDWA-08-2004-0043**
PWS ID# WY 5601111

Dear Mr. Boschetto:

Enclosed you will find an Administrative Order (Order), which the Environmental Protection Agency (EPA) has issued under the authority of the Safe Drinking Water Act (SDWA), 42 U.S.C. Section 300f et seq., and its implementing regulations. Among other things, the Administrative Order finds that the Sylvan Bay Summer Homeowner's Association ("Association") is a supplier of water as defined by the SDWA and that the Association has violated the National Primary Drinking Water Regulations (NPDWRs) at 40 C.F.R. §§ 141.23(d), 141.63(b), 141.21(b), 141.21(b)(5), 141.201, 141.21(g)(2) and 141.31(b) for: failure to monitor for nitrate and bacteriological quality; exceeding the acute maximum contaminant level for total coliform (this violation was immediately corrected and nonrecurring); failure to provide public notice of the violations and failure to report SDWA violations to the State.

If the Association complies with the enclosed Order for a period of at least twelve months, EPA may choose to close the Order. Violating the enclosed Order may lead to (1) a penalty of up to \$32,500 per day of violation of the Order, (2) a separate such penalty for violating the regulations themselves, and/or (3) a court injunction ordering the Association to comply.

Also enclosed is a Small Business Regulatory Enforcement and Fairness Act (SBREFA) Section 22 information sheet. The SBREFA sheet notifies small businesses of their right to comment on regulatory enforcement activities, and provides information on compliance assistance. Dissemination of this information sheet does not constitute an admission or determination by EPA that the business, organization or governmental jurisdiction is a small entity as defined by SBREFA.



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Additionally, instructions and a template for completing a public notice of the violations are also enclosed.

Please note that the effective date of the enclosed Order is the date of issuance. Within the next 10 days, please provide EPA with any new information that you believe the Agency is not aware of relating to the alleged violations in the Order. The information can be sent to Kathelene Brainich at the address on the letterhead, include the mailcode 8ENF-W, or you may call Ms. Brainich at (800) 227-8917, extension 6481, or (303) 312-6481. If you wish to have an informal conference with EPA, you may also call or write Ms. Brainich. If you are represented by an attorney, please ask your attorney to direct any legal questions to Michelle Jalazo at the above 800 number, extension 6921, or at (303) 312-6921.

We urge your prompt attention to this matter.

Sincerely,

SIGNED

Diane L. Sipe, Director
Technical Enforcement Program
Office of Enforcement, Compliance
and Environmental Justice

Enclosures

Order
SBREFA
Public Notice

cc: Kimball West, Sylvan Bay HOA
Larry Robinson, WY DEQ
Dr. Karl Musgrave, WDH



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 8

IN THE MATTER OF)	
)	
Sylvan Bay Summer Homeowner's)	
Association)	
)	
Respondent)	
)	ADMINISTRATIVE ORDER
Proceedings under Section 1414(g))	
of the Safe Drinking Water Act,)	Docket No. SDWA-08-2004-0043
42 U.S.C. § 300g-3(g))	
)	

The following Findings are made and Order issued under the authority vested in the Administrator of the U.S. Environmental Protection Agency (EPA) by Section 1414(g) of the Safe Drinking Water Act (the Act), 42 U.S.C. § 300g-3(g) and its implementing regulations, as properly delegated to the Supervisors of the Technical and Legal Enforcement Programs of the Office of Enforcement, Compliance and Environmental Justice, EPA Region 8.

FINDINGS

1. Sylvan Bay Summer Homeowner's Association (Respondent) is a corporation under the laws of the State of Wyoming as of January 28, 1965 and therefore a "person" within the meaning of 40 C.F.R. § 141.2.
2. Respondent owns and/or operates a system, the Sylvan Bay Summer Homeowner's Association water system (the "System"), located in Sublette County, Wyoming for the provision to the public of piped water for human consumption.



3. The System has at least 15 service connections or regularly serves an average of at least 25 individuals daily at least 60 days out of the year and is therefore a "public water system" within the meaning of Section 1401(4) of the Act, 42 U.S.C. § 300f(4), and a "non-community water system" within the meaning of 40 C.F.R. § 141.2.
4. Respondent owns and/or operates a public water system and is therefore a "supplier of water" within the meaning of Section 1401(5) of the Act, 42 U.S.C. § 300f(5) and 40 C.F.R. § 141.2. Respondent is therefore subject to the requirements of Part B of the Act, 42 U.S.C. § 300g et seq., and its implementing regulations, 40 C.F.R. Part 141.
5. According to a June 9, 2001 sanitary survey by an agent for EPA, the System is supplied by a groundwater source consisting of one spring with no treatment and serves approximately 25 persons from May through September.

FINDINGS OF VIOLATION

I.

1. 40 C.F.R. § 141.23(d) requires public water systems to monitor annually for nitrate to determine compliance with the nitrate maximum contaminant level (MCL) as stated in 40 C.F.R. § 141.62.



2. Respondent monitored for nitrate in 2002 but failed to monitor in 2003, in violation of 40 C.F.R. § 141.23(d).

II.

1. 40 C.F.R. § 141.21(a)(2) requires any non-community public water systems serving an average daily population of less than 1,001 with a groundwater source to monitor their water at least once per quarter to determine compliance with the MCL for total coliform bacteria as stated in 40 C.F.R. § 141.63.
2. Respondent failed to monitor for total coliform during 2nd (April-June) quarter 2004, in violation of 40 C.F.R. § 141.21(a)(2)

III.

1. 40 C.F.R. § 141.21(a)(2) requires any non-community public water systems serving an average daily population of less than 1,001 with a groundwater source to monitor their water at least once per quarter to determine compliance with the MCL for total coliform bacteria as stated in 40 C.F.R. § 141.63.
2. 40 C.F.R. § 141.63(b) imposes and defines the acute MCL for total coliform bacteria as a fecal coliform positive or E. coli positive repeat sample, or any total coliform positive repeat sample following a fecal coliform positive or E. coli positive routine sample.



3. Monitoring results submitted by Respondent for the public water system during September 2000 exceeded the acute MCL for total coliform bacteria, in violation of 40 C.F.R. § 141.63(b).

IV.

1. 40 C.F.R. § 141.21(b) (5) requires any public water system that collects fewer than 5 routine samples per month and has one or more total coliform positive sample to collect at least 5 routine samples during the next month the system provides water to the public.
2. Respondent failed to collect at least 5 routine samples in July 2003 after a total coliform positive sample in the preceding month, in violation of 40 C.F.R. § 141.21(b) (5).

V.

1. 40 C.F.R. § 141.201 requires owners and/or operators of public water systems to notify the public of any national primary drinking water regulations (NPDWR) violations, including violations of the MCL, maximum residual disinfection level (MRDL), treatment technique (TT), monitoring requirements, and testing procedures in 40 C.F.R. part 141.



2. Respondent has not provided public notice of the noncompliance detailed in the preceding Section IV, in violation of 40 C.F.R. § 141.201.

VI.

1. 40 C.F.R. § 141.21(g)(2) requires any public water system that has failed to comply with a coliform monitoring requirement under 40 C.F.R. § 141.21 to report the violation to EPA within ten days after the system discovers the violation.
2. Respondent failed to report to EPA the noncompliance detailed in Sections II and IV, in violation of 40 C.F.R. § 141.21(g)(2).

VII.

1. 40 C.F.R. § 141.31(b) requires public water systems to report any failure to comply with any National Primary Drinking Water Regulation (40 C.F.R. part 141) to EPA within 48 hours.
2. Respondent failed to report to EPA the noncompliance detailed in Sections I and V, in violation of 40 C.F.R. § 141.31(b).



ORDER

Based on the foregoing Findings, and pursuant to Section 1414(g) of the Act, IT IS ORDERED:

1. Within 30 days of the date of this Order, and per the regulation thereafter, Respondent shall comply with the nitrate monitoring requirements as stated in 40 C.F.R. § 141.23(d) to determine compliance with the nitrate MCL appearing at 40 C.F.R. § 141.62(b). Respondent shall report analytical results to EPA within the first 10 days following the month in which sample results are received, as required by 40 C.F.R. § 141.31(a).
2. Upon the effective date of this Order, Respondent shall comply with the requirement of 40 C.F.R. § 141.21(a) to perform quarterly bacteriological monitoring. Respondents shall comply with the MCLs as stated in 40 C.F.R. § 141.63. Respondents shall report analytical results to EPA within the first 10 days of the end of the monitoring period, as required by 40 C.F.R. § 141.31(a).
3. Upon the effective date of this Order, Respondent shall comply with all sampling requirements specified in 40 C.F.R. § 141.21(b)(5). If Respondent's water system has one or more total coliform positive samples in a



month, Respondent shall collect at least 5 routine samples during the next month the system provides water to the public. Respondent shall report analytical results to EPA within the first 10 days following the end of the monitoring period, as required by 40 C.F.R. § 141.31(a).

4. Within 30 days from the effective date of this Order, Respondent must comply with the public notice requirements set forth at 40 C.F.R. § 141.201 et seq. to return to compliance with 40 C.F.R. §§ 141.201, 141.204, and 141.205 for the violations specified under the Findings of Violation in this Order, with the exception of the total coliform acute MCL violation. Specifically, Respondent must provide public notice in accordance with 40 C.F.R. § 141.204. Public Notice must be given by any one of the following methods:
 - (1) posting the notice in conspicuous locations throughout the distribution system frequented by persons served by the system;
 - (2) by mail or direct delivery to each customer and service connection;
 - AND (3) any other method reasonably calculated to reach other persons served by the system, if they would not normally be reached by the public notice described in



(1) and (2), including publication in a local newspaper or newsletter distributed to customers; use of E-mail to notify employees or students; or, delivery of multiple copies in central locations. Upon the effective date of this Order, Respondent shall comply with the public notification requirements at 40 C.F.R. § 141.201 et seq. following any future NPDWR violation. Respondent shall submit a copy of the public notice to EPA within 10 days of completion of the public notice, as required by 40 C.F.R. § 141.31(d).

5. Upon the effective date of this Order, Respondent shall comply with 40 C.F.R. § 141.21(g)(2) by reporting any failure to comply with coliform monitoring requirements under 40 C.F.R. § 141.21 to EPA within ten days after the system discovers the violation.
6. Except where a different reporting period is specified in paragraph 5 above, upon the effective date of this Order, Respondent shall comply with 40 C.F.R. § 141.31(b) by reporting any failure to comply with any NPDWR (40 C.F.R. Part 141) to EPA within 48 hours.



7. Reporting requirements specified in this Order shall be provided by certified mail to:

Kathelene Brainich (8ENF-W)
U.S. EPA Region 8
999 18th Street, Suite 300
Denver, CO 80202-2466

GENERAL PROVISIONS

1. This Order does not constitute a waiver, suspension, or modification of the requirements of 40 C.F.R. § 141.1 et seq., or the Safe Drinking Water Act, which remain in full force and effect. Issuance of this Order is not an election by EPA to forgo any civil or criminal action otherwise authorized under the Act.
2. Violation of any term of this Order may subject the Respondent to an administrative civil penalty of up to \$27,500 per day of violation under Section 1414(g) (3) (B) of the Act, 42 U.S.C. § 300g-3(g) (3) (B), or a civil penalty of not more than \$32,500 per day of violation assessed by an appropriate U.S. District Court under Section 1414(g) (3) (C) of the Act, 42 U.S.C. § 300g-3(g) (3) (C). The penalty amounts provided in section 1414 of the Act have been adjusted for inflation, according to 40 C.F.R. part 19.



3. Violation of any requirement of the Act, its implementing regulations, or this Order may subject Respondent to a civil penalty of not more than \$32,500 per day of violation assessed by an appropriate U.S. District Court under Section 1414(b) of the Act, 42 U.S.C. § 300g-3(b).
4. The effective date of this Order shall be the date of issuance of this Order.

Issued this 25TH day of August, 2004.

David J. Janik

Michael T. Risner, Director
David J. Janik, Supervisory Attorney
Legal Enforcement Program
Office of Enforcement, Compliance
and Environmental Justice

SIGNED

Diane L. Sipe, Director
Technical Enforcement Program
Office of Enforcement, Compliance
and Environmental Justice

IF YOU WOULD LIKE COPIES OF THE ATTACHMENTS, PLEASE CONTACT THE REGIONAL HEARING CLERK.

THIS DOCUMENT WAS FILED IN THE RHC'S OFFICE ON AUGUST 25, 2004.

